

RE KARAS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In the Matter of the Application of

MEHLON TRUCKING, INC.,

Petitioner-Plaintiff,

-against-

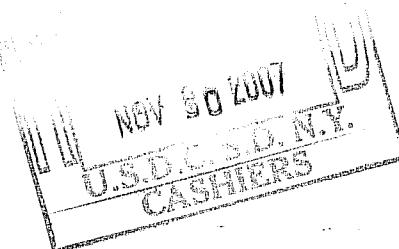
THE PLANNING BOARD OF THE TOWN OF MONTGOMERY and JOHN L. BROWN, as Chairman of the Planning Board of the Town of Montgomery, TOWN OF MONTGOMERY TOWN BOARD and TOWN OF MONTGOMERY,

Respondents-Defendants.

07 CV 10711

NOTICE OF REMOVAL

Docket No.



Respondents TOWN OF MONTGOMERY TOWN BOARD and TOWN OF MONTGOMERY, by their attorneys, MIRANDA SOKOLOFF SAMBURSKY SLOWE VERVENIOTIS, LLP, as and for their Notice of Removal, set forth as follows:

1. This action/proceeding was commenced in the Supreme Court of the State of New York, County of Orange, against the PLANNING BOARD OF THE TOWN OF MONTGOMERY and JOHN L. BROWN. On October 31, 2007, Supreme Court, Orange County issued an order permitting petitioner/plaintiff to add as new parties the TOWN OF MONTGOMERY TOWN BOARD and the TOWN OF MONTGOMERY. A copy of that decision is annexed hereto as Exhibit "A".

2. Petitioner brings this action/proceeding, under state and federal law, claiming, among other things, that their federal constitutional rights were violated by respondents/defendants in the handling of an application by petitioner/plaintiff to engage in mining on its property. Petitioner/plaintiff's Fifth and Sixth Causes of Action allege

violation of the U.S. Constitution. A copy of the supplemental summons and amended verified petition and complaint is annexed hereto as Exhibit "B".

3. This case, therefore, falls within this court's federal question jurisdiction, 28 U.S.C. § 1331. Respondents are to remove this action pursuant to 28 U.S.C. § 1441(b), which provides, in pertinent part:

Any civil action of which the district courts have original jurisdiction founded on a claim or right arising under the Constitution, treaties or laws of the United States shall be removable without regard to the citizenship or residence of the parties. Any other such action shall be removable only if none of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.

4. The Town of Montgomery Town Board and the Town of Montgomery first received the amended verified petition on November 14, 2007.

WHEREFORE, respondents/defendants pray that the above-captioned proceeding, now pending in the Supreme Court of the State of New York, County of Orange, be removed therefrom to this Court.

Dated: Mineola, New York
November 27, 2007

MIRANDA SOKOLOFF SAMBURSKY
SLONE VERVENIOTIS, LLP
Attorneys for Respondents

By: 

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